

Roney Declaration: Exhibit A

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JUN FU

Electronically
FILED
by Superior Court of California, County of San Mateo
ON **8/17/2023**
By /s/ Hessen Ladcani
Deputy Clerk

7
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF SAN MATEO

10 CIVIL – UNLIMITED JURISDICTION

11 JUN FU, an individual,

12 Plaintiff,

13 vs.

14 ROKID, INC.; and DOES 1 through 25,
15 inclusive,

16 Defendants.

Case No. 23-CIV-03872

COMPLAINT FOR DAMAGES

- 17 (1) **WORKPLACE RETALIATION IN**
18 **VIOLATION OF LABOR CODE SECTION**
19 **1102.5**
20 (2) **VIOLATION OF LABOR CODES 233 AND**
21 **234 (KIN CARE)**
22 (3) **WRONGFUL TERMINATION IN VIOLATION**
23 **OF PUBLIC POLICY**
24 (4) **BREACH OF CONTRACT**
25 (5) **FAILURE TO PAY WAGES AND RELATED**
26 **PENALTIES PURSUANT TO CALIFORNIA**
27 **LABOR CODE**

JURY TRIAL DEMAND

28 COMES NOW PLAINTIFF JUN FU (hereinafter “Plaintiff” or “Mr. Fu”) and alleges as follows:

GENERAL ALLEGATIONS

25 1. Plaintiff is informed and believes that defendant ROKID, INC. (hereinafter
26 “Rokid”) is a California corporation headquartered in San Mateo, California, where it employed
27 Plaintiff.

28 2. Plaintiff is ignorant of the true names and capacities of the defendants sued herein

1 as DOES 1 through 25 (hereinafter referred to with Rokid as “Defendants”), and therefore sues
2 these defendants by such fictitious names. Plaintiff will amend this complaint to allege their true
3 names and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that
4 each of said fictitiously-named defendants is responsible in some manner for the occurrences
5 herein alleged, and that Plaintiff’s injuries as herein alleged were proximately caused by
6 defendants.

7 3. Plaintiff is informed and believes, and based on such information and belief alleges,
8 that at all times herein mentioned, each of the defendants named herein was the agent and
9 employee of the remaining defendants and was acting within the course and scope of said agency
10 and employment.

11 **FACTUAL ALLEGATIONS**

12 4. In November 2021, Rokid hired Mr. Fu as its Vice President of Sales. Pursuant to a
13 written employment agreement, Rokid agreed to pay Mr. Fu \$240,000 per year in base salary. In
14 addition, Mr. Fu was eligible to receive a \$60,000 bonus based on the results of a written annual
15 assessment. Pursuant to his written employment agreement, Mr. Fu’s annual income was
16 \$300,000, on the premise that he completed the performance goals required by the company each
17 year.

18 5. In approximately January 2023, Mr. Fu received his annual assessment, which was
19 excellent. As he successfully achieved 133% of his sales quota and completed all performance
20 goals provided to him, he received an A rating which was the highest possible rating. Based on
21 such, he was entitled to the \$60,000 bonus pursuant to the terms of his employment agreement, but
22 Rokid failed to pay the bonus to him

23 6. Throughout his employment, Mr. Fu made numerous complaints to his manager
24 about Rokid’s illegal practices, including that it sold technology products to Russia in violation of
25 US sanctions against Russia. Those sanctions prohibited certain technology product exports to
26 Russia and put restrictions on sales to Russia of certain items used in the Oil, Gas and other
27 industries. Rokid directed Mr. Fu to arrange the transportation to Russia of its augmented reality
28 glasses products, which are used by Oil & Gas producers to improve production efficiency. Mr.

1 Fu informed Rokid that he believed these activities were illegal and he refused to participate in
2 them.

3 7. On several other occasions during his employment, Rokid instructed Mr. Fu to
4 handle Russian sales that Mr. Fu believes violated the law. Mr. Fu informed Rokid that such
5 conduct was unlawful, yet Rokid continued its illegal practices. Mr. Fu refused to partake in
6 Rokid's illegal practices and complained about such to his manager both verbally and in writing.
7 Rokid took no action in response to Mr. Fu's complaints and continued the illegal practices.

8 8. In the first quarter of 2023, Rokid asked Mr. Fu to collect money related to the
9 illegally-smuggled products, but Mr. Fu refused to do so. Around the same time, Mr. Fu's
10 manager informed him that Rokid would pay him commissions in 2023, instead of a bonus, but
11 neither paid him a bonus nor commissions.

12 9. From January 2023 to May 2023, Mr. Fu made numerous complaints to his
13 manager about both his unpaid bonus and Rokid's unlawful conduct regarding the sales to Russia,
14 but his manager refused to take action. On May 12, 2023, Mr. Fu brought up these issues to his
15 manager again, but his manager again ignored his complaints. As such, on May 13, 2023, Mr. Fu
16 reported Rokid's conduct of unlawfully shipping technology products to Russia to the United
17 States Department of Commerce.

18 10. On May 15, 2023, Mr. Fu went out on medical leave and provided a doctor's note
19 to Rokid excusing him from work for the week, which was later extended by another week.
20 However, on May 25, 2023, while Mr. Fu was out on medical leave, Rokid terminated his
21 employment. Shortly thereafter, Mr. Fu's manager advised Rokid employees that they decided to
22 terminate Mr. Fu due to severe health issues that may impact his work performance.

23 10. Although Rokid provided Mr. Fu with his last paycheck, Rokid did not pay him any
24 bonus or commissions owed to him.

25 **FIRST CAUSE OF ACTION**
26 **WORKPLACE RETALIATION IN VIOLATION OF**
27 **LABOR CODE SECTION 1102.5**

27 11. Plaintiff incorporates the foregoing paragraphs as if fully restated herein.

28 12. Under California Labor Code section 1102.5(b), an employer may not retaliate

1 against an employee who discloses information “to a government or law enforcement agency, to a
 2 person with authority over the employee or another employee who has the authority to investigate,
 3 discover, or correct the violation or noncompliance . . . if the employee has reasonable cause to
 4 believe that the information discloses a violation of state or federal statute, or a violation of or
 5 noncompliance with a local, state, or federal rule or regulation.” Under Labor Code section
 6 1102.5(c), an employer “shall not retaliate against an employee for refusing to participate in an
 7 activity that would result in a violation of state or federal statute, or a violation of or
 8 noncompliance with a local, state, or federal rule or regulation.” Labor Code section 1105
 9 provides a statutory right of action for damages to an injured employee.

10 13. Defendants wrongfully and unlawfully retaliated against Plaintiff for complaining
 11 about unlawful conduct, as described above. At the time Plaintiff made the complaints, Plaintiff
 12 had reasonable cause to believe his complaints concerned violations of state or federal law,
 13 including but not limited to 15 CFR Part 746 – Embargoes and Other Special Controls, as well as
 14 the Labor Code. Defendants’ unlawful practices as outlined herein were in direct contravention of
 15 Labor Code section 1102.5(b) and (c), as more fully set forth in the preceding paragraphs of this
 16 complaint.

17 14. As a direct and proximate result of said wrongful conduct by defendant, Plaintiff
 18 has been injured as stated in the section below entitled “DAMAGES,” which is incorporated herein
 19 to the extent pertinent.

20 **SECOND CAUSE OF ACTION**
 21 **VIOLATION OF LABOR CODES 233, 234 AND 246.5 (KIN CARE)**

22 15. Plaintiff incorporates the foregoing paragraphs as if fully restated herein.

23 16. California Labor Code Section 233(c) provides that “[a]n employer shall not deny
 24 an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in
 25 any manner discriminate against an employee for using, or attempting to exercise the right to use,
 26 sick leave to attend to an illness or the preventive care of a family member, or for any other reason
 27 specified in subdivision (a) of Section 246.5.” Section 246.5 provides that “an employer shall not
 28 deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote,

1 suspend or in any manner discriminate against an employee for using accrued sick days.”

2 17. Labor Code Section 234 provides that “[a]n employer’s absence control policy that
3 counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in
4 discipline, discharge, demotion, or suspension is a *per se* violation of Section 233. An employee
5 working under this policy is entitled to appropriate legal and equitable relief pursuant to Section
6 233.”

7 18. Defendants violated Sections 233, 234 and 246.5 by terminating Plaintiff for taking
8 accrued sick leave and/or paid time off.

9 19. As a direct and proximate result of said wrongful conduct by defendant, Plaintiff
10 has been injured as stated in the section below entitled “DAMAGES,” which is incorporated herein
11 to the extent pertinent.

12 **THIRD CAUSE OF ACTION**
13 **Wrongful Termination In Violation of Public Policy**

14 20. Plaintiff incorporates the foregoing paragraphs as if fully restated herein.

15 21. Defendants’ termination of Plaintiff’s employment contravened the well-
16 established, fundamental, and substantial public policy of the laws of the United States and
17 California law, as embodied in Labor Code Section 1102.5 and California common law, that an
18 employer may not retaliate against an employee for the employee’s disclosure of reasonably-based
19 suspicions of violations of state or federal statute, or a violation of or noncompliance with a local,
20 state, or federal rule or regulation. Defendants’ conduct also violated other well-established,
21 fundamental, and substantial public policies of the State of California, including but not limited to
22 Labor Code Section 233, 234 and 246.5.

23 22. Defendants terminated Plaintiff’s employment because he complained to
24 Defendants about Defendants’ unlawful conduct, as described in the preceding paragraphs of this
25 complaint, and because he took sick leave that he was lawfully entitled to take.

26 23. Defendants’ unlawful practices as outlined herein were in direct contravention of
27 fundamental public policies, as more fully set forth in the preceding paragraphs of this complaint.

28 24. As a direct and proximate result of said wrongful conduct by defendant, Plaintiff

1 has been injured as stated in the section below entitled “DAMAGES,” which is incorporated herein
2 to the extent pertinent.

3 **FOURTH CAUSE OF ACTION**
4 **BREACH OF CONTRACT**

5 25. Plaintiff incorporates the foregoing paragraphs as if fully restated herein.

6 26. Plaintiff has performed all the conditions, covenants, and promises required of him
7 by Defendants to meet the terms and conditions of the written, oral and implied employment
8 agreements between the parties, including the employment agreement.

9 27. Defendants breached the agreements by refusing to pay Plaintiff all wages due and
10 payable to him, including but not limited to a \$60,000 bonus as provided in his November 17,
11 2021 employment agreement, which Plaintiff signed on November 18, 2023, and other documents.
12 Defendants also refused to pay Plaintiff commissions which they promised to pay him in 2023.

13 28. As a direct and legal result of Defendants’ breach of written, oral and implied
14 contract as herein alleged, Plaintiff has suffered, and will continue to suffer, past and future
15 economic losses related to all earnings to which he is entitled under the contract but was not paid,
16 plus consequential damages, all in an amount within this Court’s jurisdiction, according to proof at
17 time of trial.

18 29. As a direct and proximate result of said wrongful conduct by defendant, Plaintiff
19 has been injured as stated in the section below entitled “DAMAGES,” which is incorporated herein
20 to the extent pertinent.

21 **FIFTH CAUSE OF ACTION**
22 **FAILURE TO PAY WAGES AND RELATED PENALTIES**
23 **IN VIOLATION OF THE CALIFORNIA LABOR CODE**
(SECTIONS 201; 203; 218.5)

24 30. Plaintiff incorporates the foregoing paragraphs as if fully restated herein.

25 31. During his employment with Defendants, Plaintiff was not paid all wages, including
26 a \$60,000 bonus and commissions owed to him pursuant to his employment agreements and other
27 written and verbal communications with Defendants.

28 32. Under Labor Code section 201, if an employer “discharges an employee, the wages

1 earned and unpaid at the time of discharge are due and payable immediately.” Labor Code section
 2 203 authorizes an employee to sue for penalties in an amount equal to the former employee’s daily
 3 wages for up to 30 days if an employer willfully failed to pay any wages due to the employee at
 4 the time of separation from employment (or within 72 hours if the employee tenders a resignation).

5 33. Defendants failed to pay Plaintiff all of the wages and benefits, to which he was
 6 entitled at the time of his employment separation. Defendants’ failure to pay Plaintiff wages was
 7 willful in nature as set forth in the applicable authority governing Labor Code section 203 and
 8 warrants the imposition of the 30-day wage penalty.

9 34. In addition, Plaintiff is entitled to recover reasonable attorneys’ fees, costs of suit,
 10 and interest and penalties on the unpaid amounts pursuant to Labor Code sections 218.5.

11 35. As a direct and proximate result of said wrongful conduct by defendant, Plaintiff
 12 has been injured as stated in the section below entitled “DAMAGES,” which is incorporated herein
 13 to the extent pertinent.

14 DAMAGES

15 36. As a direct and proximate cause of defendants’ unlawful acts as set forth in this
 16 Complaint, Plaintiff has suffered and continues to suffer special damages including, but not limited
 17 to unpaid wages, consequential damages, losses in past earnings, future earnings, deferred
 18 compensation, and other employment benefits, all in an amount within the jurisdiction of this
 19 Court, according to proof at time of trial.

20 37. As a direct and proximate cause of defendants’ unlawful acts as set forth in this
 21 Complaint, Plaintiff has suffered and continues to suffer humiliation, mental anguish, emotional
 22 and physical distress, and has been injured in mind and body, all in an amount within the
 23 jurisdiction of this court, according to proof at trial.

24 38. As a result of defendants’ wrongful and unlawful employment practices, as set forth
 25 in the preceding paragraphs of this complaint, Plaintiff is entitled to receive an award of statutory
 26 attorneys’ fees, expert witness fees, and costs under Labor Code sections 218, 233, 1102.5, and
 27 any other appropriate statute or law which provides for attorneys’ fees, and hereby requests
 28 recovery of his attorneys’ fees and costs of suit in an amount according to proof.

39. Defendants and their managers, officers, owners, supervisors or agents acted oppressively, fraudulently, maliciously and in willful and conscious disregard of Plaintiff's rights, and with the intention of causing, or in reckless disregard of the probability of causing injury and emotional distress to plaintiff. Defendants were informed of the oppressive, fraudulent and malicious conduct of their employees, managers, officers, supervisors and agents, and ratified, approved and authorized such conduct. Plaintiff is therefore entitled to an award of punitive damages in amount conforming to proof at trial.

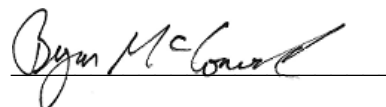
PRAYER

WHEREFORE, Plaintiff prays for judgment against defendants as follows:

1. That Plaintiff be awarded appropriate back and future pay, plus all fringe benefits, and other compensation due to Plaintiff as a result of defendants' unlawful employment practices, as alleged above, together with interest at the legal rate. Said amount exceeds the jurisdictional amount of this Court, the exact amount to be proven at the time of trial; and
2. That Plaintiff be awarded damages for physical and mental suffering, which Plaintiff has incurred as a result of defendants' actions as alleged above, all in excess of the jurisdictional amount of this Court, the exact amount to be proven at the time of trial; and
3. That Plaintiff be awarded reasonable attorneys' fees and costs pursuant to Labor Code sections 218, 233, 1102.5, and any other applicable law; and
4. That Plaintiff be awarded unpaid wages, interest and waiting time penalties pursuant to Labor Code Section 203.
5. That Plaintiff be awarded pre-judgment and post-judgment interest; and
6. That Plaintiff be awarded costs of suit; and
7. For such other and further relief as this Court may deem just and proper.

Date: August 8, 2023

MCCORMACK LAW FIRM



Bryan J. McCormack, Esq.
Attorney for Plaintiff Jun Fu